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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103-7013

EXAMINER

BECKER, DREW E

ART UNIT PAPER NUMBER

1761

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/749,013

Applicant(s)

SCHAFFER

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 15-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of claims 1-14 in Paper No. 6 is acknowledged.

The traversal is on the ground(s) that the process of claims 15-18 is not materially different from the product of claims 1-14. This is not found persuasive because the product of claims 1-14 can be made by another and materially different process from that of process claims 15-18, for instance selecting a fibrous foil having an area weight of 120 g/m<sup>2</sup>. This value is outside the range of process claim 15 (15-100 g/m<sup>2</sup>).

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites "for meat products, in particular for boiled ham or pickled products". It is not clear whether "pickled products" other than meat would satisfy this limitation. It is not clear whether the claim is limited to only "boiled ham or pickled products", or whether it encompasses any "meat product".

5. Claim 1 recites "against whose side facing away from a meat product to be packaged therein can be placed a net". It is not clear whether a "net" is being claimed

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as a structural element of the product, or whether the wrap must merely be capable of use with a net. It is not clear whether a "meat product" is being claimed as an element of the product, or whether the wrap must merely be capable of use with a meat product.

6. Claim 1 recites "its". It is not clear what "it" is.

7. Claim 5 recites "wherein the anti-adhesive coating at least predominantly covers the fibrous foil". It is not clear what degree, or level, of coating would be considered to "predominantly cover" the foil.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 04194064A.

3. JP 04194064A teaches a ham packaging wrap which is water insoluble and permeable to gas, steam, and/or smoke (abstract) comprising a non-tubular, flat foil which can be made from woven, knit, nonwoven, cellulose, and synthetic fibers (Figure 1, #2; page 5, lines 3-6), a net on an outer side (Figure 1, #3), an area weight of 5-100 g/m<sup>2</sup> (page 5, line 11), an anti-adhesive coating on a inner side which can be viscose and which covers the foil (page 6, lines 11-17), the anti-adhesive being applied in an amount of 8 g/m<sup>2</sup> (page 7, line 14), the use of water impermeable materials such as

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rayon and polyester (page 5, lines 3-6), and needle punches (page 7, line 18).

Regarding claim 9, phrases such as "wherein the coating is pressed, rolled, brushed, or pasted on" are merely preferred methods of making the claimed product, and as such are not given patentable weight. The recitation "for meat products, in particular for boiled ham or pickled products" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04194064A as applied above, in view of Kato [Pat. No. 4,081,580].

JP 04194064A teaches the above mentioned components. JP 04194064A does not teach the anti-adhesive material being impermeable to gas, steam, or smoke and

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having gaps. Kato teaches a meat wrap comprising an anti-adhesive coating which is water impermeable and possesses gaps (Figure 1, #6). It would have been obvious to one of ordinary skill in the art to incorporate the coating of Kato into the invention of JP 04194064A since both are directed to meat wraps, since JP 04194064A already taught an anti-adhesive coating and permeability to smoke (page 6, lines 11-17; abstract), and since the coating and gaps of Kato would have provided better storage performance when held under refrigerated conditions (column 1, lines 7-13).

6. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 04194064A as applied above, in view of Hammer et al [Pat. No. 6,251,449].

JP 04194064A teaches the above mentioned components. JP 04194064A does not teach impregnating the wrap with liquid seasonings, flavor, or smoke; and imprinting it with edible color. Hammer et al teach a meat wrap impregnated with liquid smoke and edible colors (column 4, line 65 to column 5, line 15). It would have been obvious to one of ordinary skill in the art to incorporate the smoke and color and Hammer et al into the invention of JP 04194064A since both are directed to meat wraps, since JP 04194064A already was intended to be used for wrapping meats (abstract), since meat wraps often were colored or labeled, and since the liquid smoke of Hammer et al teach that the liquid smoke impregnated meat wraps possessed improved flavor and aroma, more uniform color, and were preferred by taste testers (column 6, lines 26-29).


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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Birdseye [Pat. No. 1,924,903], Draheim [Pat. No. 2,518,762], AU 9177336A, Bennett [Pat. No. 2,632,723], Schafer et al [Pat. No. 6,200,613], and Brucker [Pat. No. 2,849,322] teach meat wraps with coatings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

  
Drew E Becker  
Examiner  
Art Unit 1761

May 29, 2003